

STATE OF IOWA
PROPERTY ASSESSMENT APPEAL BOARD

Stuart D. Juarez,
Appellant,

v.

Polk County Board of Review,
Appellee.

ORDER

Docket No. 13-77-0764
Parcel No. 120/04515-000-000

On August 29, 2014, the above-captioned appeal came on for consideration before the Iowa Property Assessment Appeal Board. The appeal was conducted under Iowa Code section 441.37A(2)(a-b) (2013) and Iowa Administrative Code rules 701-71.21(1) et al. Appellant Stuart D. Juarez was self-represented. He changed his request for hearing to a request his appeal be considered without hearing. Assistant County Attorney Ralph Marasco, Jr. represented the Board of Review. Neither party submitted evidence to supplement the certified record. The Appeal Board now, having examined the entire record and being fully advised, finds:

Findings of Fact

Stuart D. Juarez, owner of property located at 1125 Frazier Avenue, Des Moines, Iowa, appeals from the Polk County Board of Review decision reassessing his property. According to the property record card, the subject property consists of a one-story dwelling having 910 total square feet of living area, and a full basement with 455 square feet of low-quality finish. The improvements were built in 1996. The dwelling has an average quality grade (4-05) and is in normal condition. It also has a 350 square-foot, enclosed porch and 462 square feet of deck, which were added since 2012. Its site is 0.241-acres.

The real estate was classified residential on the initial assessment of January 1, 2013, and valued at \$106,100, representing \$20,700 in land value and \$85,400 in improvement value. Juarez

protested to the Board of Review on the grounds that the property assessment was not equitable compared to like properties in the taxing jurisdiction under Iowa Code section 441.37(1)(a)(1); that the property was assessed for more than authorized by law under 441.37(1)(a)(2); that there was an error in the assessment under section 441.37(1)(a)(4); and that there was a change in value since the last assessment under 441.37(1)(b). The Board of Review denied the protest.

Juarez then filed his appeal with this Board and urged the same grounds. He claims \$95,500 is the actual value and fair assessment of the subject property. Juarez did not submit evidence to support his overassessment or error claims. Since 2013 is a reassessment year, the ground of change in value is not applicable. As a result, we will only consider his equity claim.

On his Board of Review protest form, Juarez identified seven properties on Frazier Avenue he felt were comparable to his property. He listed the address and assessed value of each. The assessments ranged from \$54,000 to \$88,700. Juarez compared assessments, which is insufficient to establish inequity. He did not provide any comparable sales data, or develop an assessment/sales ratio analysis. The Board of Review provided additional information about five of the seven properties. We note that the two properties assessed at a lower value per square foot located at 1208 and 1116 Fraizer, are older dwellings, have no basement finish, are on smaller sites and one is in below normal condition. These factors would contribute to lower assessments.

Address	Year Built	Grade	Acres	TSFLA	Base Fin SF	2013 AV	Assessed Value PSF
Subject	1996	4-05	0.241	910	455	\$106,100	\$116.59
1109 Frazier	2006	4+10	0.177	1085	0	\$134,600	\$126.06
1218 Frazier	1976	4+05	0.193	906	300	\$112,500	\$124.17
1208 Frazier	1973	4-05	0.193	858	0	\$94,400	\$110.02
1120 Frazier	1971	4+00	0.161	840	0	\$105,900	\$126.07
1116 Frazier	1971	4+00	0.161	840	0	\$84,900	\$101.07

The Board of Review provided five comparable sales that occurred in 2011 and 2012 in the same neighborhood as the subject property (DM35). The properties have the similar quality construction grades as Juarez's property, have similar living area, and the site sizes are fairly uniform. Juarez's property assessment (\$106,100) and assessed value per-square-foot (\$116.59) are within the range of adjusted sale prices.

Address	Year Built	Grade	Acres	TSFLA	2013 AV	Sale Price	Adjusted Sale Price	Adjusted SP PSF
Subject	1996	4-05	0.241	910	\$106,100	N/A	N/A	N/A
1019 Titus	1990	4+05	0.241	960	\$113,500	\$110,500	\$99,614	\$103.76
604 Phillips	1995	4+00	0.219	974	\$120,900	\$121,800	\$107,603	\$110.48
1207 Titus	2006	4+00	0.241	891	\$132,700	\$126,500	\$106,163	\$119.15
518 Maxwellton	1985	4+05	0.226	834	\$96,200	\$93,500	\$102,988	\$123.49
1020 Spring	1971	4+05	0.201	834	\$113,000	\$114,500	\$114,058	\$136.76

Juarez did not provide sufficient information to conduct an assessment/sales ratio study in order to analyze his equity claim. Additionally, he did not establish the subject's fair market value as of January 1, 2013. His assessment is consistent with the assessed values and sales prices of the Board of Review's comparable sales data. In summary, the preponderance of the evidence does not support Juarez's claim of inequitable assessment.

Conclusions of Law

The Appeal Board has jurisdiction of this matter under Iowa Code sections 421.1A and 441.37A. This Board is an agency and the provisions of the Administrative Procedure Act apply. Iowa Code § 17A.2(1). This appeal is a contested case. § 441.37A(1)(b). The Appeal Board determines anew all questions arising before the Board of Review, but considers only those grounds presented to or considered by the Board of Review. §§ 441.37A(3)(a); 441.37A(1)(b). New or additional evidence may be introduced. *Id.* The Appeal Board considers the record as a whole and all

of the evidence regardless of who introduced it. § 441.37A(3)(a); *see also Hy-vee, Inc. v. Employment Appeal Bd.*, 710 N.W.2d 1, 3 (Iowa 2005). There is no presumption the assessed value is correct.

§ 441.37A(3)(a). However, the taxpayer has the burden of proof. § 441.21(3). This burden may be shifted; but even if it is not, the taxpayer may still prevail based on a preponderance of the evidence. *Id.*; *Richards v. Hardin County Bd. of Review*, 393 N.W.2d 148, 151 (Iowa 1986).

In Iowa, property is to be valued at its actual value. Iowa Code § 441.21(1)(a). Actual value is the property's fair and reasonable market value. § 441.21(1)(b). Market value essentially is defined as the value established in an arm's-length sale of the property. *Id.* Sale prices of the property or comparable properties in normal transactions are to be considered in arriving at market value. *Id.* If sales are not available to determine market value then "other factors," such as income and/or cost, may be considered. § 441.21(2). The property's assessed value shall be one hundred percent of its actual value. § 441.21(1)(a).

To prove inequity, a taxpayer may show that an assessor did not apply an assessing method uniformly to similarly situated or comparable properties. *Eagle Food Centers v. Bd. of Review of the City of Davenport*, 497 N.W.2d 860, 865 (Iowa 1993). Alternatively, a taxpayer may show the property is assessed higher proportionately than other like property using criteria set forth in *Maxwell v. Shivers*, 133 N.W.2d 709 (Iowa 1965). The six criteria include evidence showing


"(1) that there are several other properties within a reasonable area similar and comparable . . . (2) the amount of the assessments on those properties, (3) the actual value of the comparable properties, (4) the actual value of the [subject] property, (5) the assessment complained of, and (6) that by a comparison [the] property is assessed at a higher proportion of its actual value than the ratio existing between the assessed and the actual valuations of the similar and comparable properties, thus creating a discrimination."

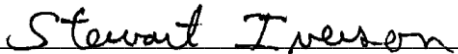
Id. at 711. The *Maxwell* test provides that inequity exists when, after considering the actual and assessed values of comparable properties, the subject property is assessed at a higher proportion of this actual value. *Id.* The *Maxwell* test may have limited applicability now that current Iowa law requires


assessments to be at one hundred percent of market value. § 441.21(1). Nevertheless, in some rare instances, the test may be satisfied. Juarez did not prove by a preponderance of the evidence that his property is inequitably assessed under either the *Eagle Food* or *Maxwell* tests.

THE APPEAL BOARD ORDERS that the January 1, 2013, assessment as determined by the Polk County Board of Review is affirmed.

Dated this 12th day of September, 2014.


Jacqueline Rypma, Presiding Officer


Stewart Iverson, Board Chair


Karen Oberman, Board Member

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